

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

MATTHEW ELLIS CONOLLY, M.D.

**Physician's and Surgeon's
Certificate No. A34351**

Respondent

Case No. 8002014007740

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 21, 2018.

IT IS SO ORDERED May 22, 2018.

MEDICAL BOARD OF CALIFORNIA

By: _____

**RONALD H. LEWIS, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 COLLEEN M. MCGURRIN
Deputy Attorney General
4 State Bar Number 147250
300 South Spring Street, Suite 1702
5 Los Angeles, California 90013
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Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **MATTHEW ELLIS CONOLLY, M.D.**
12 **UCLA Center for Health Services BH386M**
Los Angeles, California 90095

13 **Physician's and Surgeon's Certificate No. A**
14 **34351**

15 Respondent.

Case No. 800-2014-007740

OAH No. 2017100038

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California (Board). She brought this action solely in her official capacity and is represented in
22 this matter by Xavier Becerra, Attorney General of the State of California, by Colleen M.
23 McGurrin, Deputy Attorney General.

24 2. Respondent MATTHEW ELLIS CONOLLY, M.D. is represented in this proceeding
25 by attorney Peter R. Osinoff, Esq., whose address is: Bonne Bridges Mueller O'Keefe & Nichols,
26 355 South Grand Ave., Suite 1750, Los Angeles, CA 90071.

27 3. On or about August 24, 1979, the Board issued Physician's and Surgeon's Certificate
28

1 No. A 34351 to Respondent. Said Certificate was in full force and effect at all times relevant to
2 the charges brought in Accusation No. 800-2014-007740, and will expire on June 30, 2019,
3 unless renewed.

4 JURISDICTION

5 4. Accusation No. 800-2014-007740 was filed before the Board, and is currently
6 pending against Respondent. The Accusation and all other statutorily required documents were
7 properly served on Respondent on August 11, 2017. Respondent timely filed his Notice of
8 Defense contesting the Accusation.

9 5. A copy of Accusation No. 800-2014-007740 is attached as exhibit A and incorporated
10 herein by reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 800-2014-007740. Respondent has also carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

16 7. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
18 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
19 to the issuance of subpoenas to compel the attendance of witnesses and the production of
20 documents; the right to reconsideration and court review of an adverse decision; and all other
21 rights accorded by the California Administrative Procedure Act and other applicable laws.

22 8. Respondent freely, voluntarily, knowingly, and intelligently waives and gives up each
23 and every right set forth above.

24 CULPABILITY

25 9. Respondent understands and agrees that the charges and allegations in Accusation
26 No. 800-2014-007740, if proven at a hearing, constitute cause for imposing discipline upon his
27 Physician's and Surgeon's Certificate.

28 10. For the purpose of resolving the Accusation without the expense and uncertainty of

1 further proceedings, Respondent agrees that he does not contest that, at an administrative hearing,
2 Complainant could establish a *prima facie* case with respect to the charges and allegations
3 contained in Accusation No. 800-2014-007740, and that he hereby gives up his right to contest
4 those charges thereby subjecting his license to disciplinary action.

5 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
6 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
7 Disciplinary Order below.

8 CONTINGENCY

9 12. This stipulation shall be subject to approval by the Medical Board of California.
10 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
11 Board of California may communicate directly with the Board regarding this stipulation and
12 settlement, without notice to or participation by Respondent or his counsel. By signing the
13 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
14 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
15 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
16 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
17 action between the parties, and the Board shall not be disqualified from further action by having
18 considered this matter.

19 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
20 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
21 signatures thereto, shall have the same force and effect as the originals.

22 14. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following
24 Disciplinary Order:

25 DISCIPLINARY ORDER

26 A. PUBLIC REPRIMAND

27 IT IS HEREBY ORDERED that Respondent Matthew Ellis Conolly, M.D.'s Physician's
28 and Surgeon's Certificate No. A 34351 shall be and is hereby Publicly Reprimanded pursuant to

1 Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which
2 is issued in connection with Respondent's care and treatment of patient J.C. as set forth in
3 Accusation No. 800-2014-007740, is as follows:

4 In your care and treatment of patient J.C., on certain occasions in 2011 and
5 continuing through 2015 you prescribed two-short acting opiates at the same time
6 to patient J.C., in violation of Business and Professions Code section 2234,
7 subdivision (c).

8 **B. PRESCRIBING PRACTICES COURSE.**

9 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
10 course in prescribing practices approved in advance by the Board or its designee. Respondent
11 shall provide the approved course provider with any information and documents that the approved
12 course provider may deem pertinent. Respondent shall participate in and successfully complete
13 the classroom component of the course not later than six (6) months after Respondent's initial
14 enrollment. Respondent shall successfully complete any other component of the course within
15 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense
16 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
17 licensure.

18 A prescribing practices course taken after the acts that gave rise to the charges in the
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
20 or its designee, be accepted towards the fulfillment of this condition if the course would have
21 been approved by the Board or its designee had the course been taken after the effective date of
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than 15 calendar days after successfully completing the course, or not later than
25 15 calendar days after the effective date of the Decision, whichever is later.

26 ///

27 ///

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order freely, voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California. By entering into this stipulation, I fully understand that, upon formal acceptance by the Board, I shall be Publicly Reprimanded by the Board and shall be required to comply with all of the terms and conditions of the Disciplinary Order set forth above. I also fully understand that any failure to comply with the terms and conditions of the Disciplinary Order set forth herein shall constitute unprofessional conduct and will subject my Physician's and Surgeon's Certificate No. A 34351 to disciplinary action.

DATED: 15th March, 2018

Matthew E. Conolly
MATTHEW ELLIS CONOLLY, M.D.
Respondent

I have read and fully discussed with Respondent MATTHEW ELLIS CONOLLY, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/15/18

Peter R. Osinoff
PETER R. OSINOFF, ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 3/15/18

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


COLLEEN M. MCGURRIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-007740

1 XAVIER BECERRA
2 Attorney General of California
3 ROBERT MCKIM BELL
4 Supervising Deputy Attorney General
5 State Bar No. 56332
6 California Department of Justice
7 300 So. Spring Street, Suite 1702
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11 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Aug 11 20 17
BY [Signature] ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 800-2014-007740

11 **MATTHEW ELLIS CONOLLY, M.D.**

A C C U S A T I O N

12 UCLA Center for Health Sciences
13 BH386M
14 Los Angeles, California 90095

15 Physician's and Surgeon's Certificate A 34351,
16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California (Board).

22 2. On August 24, 1979, the Medical Board issued Physician's and Surgeon's Certificate
23 number A 34351 to Matthew Ellis Conolly, M.D. (Respondent). That license was in full force
24 and effect at all times relevant to the charges brought herein and will expire on June 30, 2019,
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2234 of the Code, states:

2 “The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
4 limited to, the following:

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
6 violation of, or conspiring to violate any provision of this chapter.

7 “(b) Gross negligence.

8 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
9 omissions. An initial negligent act or omission followed by a separate and distinct departure from
10 the applicable standard of care shall constitute repeated negligent acts.

11 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
12 for that negligent diagnosis of the patient shall constitute a single negligent act.

13 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
14 constitutes the negligent act described in paragraph (1), including, but not limited to, a
15 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
16 applicable standard of care, each departure constitutes a separate and distinct breach of the
17 standard of care.

18 “(d) Incompetence.

19 “(e) The commission of any act involving dishonesty or corruption which is substantially
20 related to the qualifications, functions, or duties of a physician and surgeon.

21 “(f) Any action or conduct which would have warranted the denial of a certificate.

22 “(g) The practice of medicine from this state into another state or country without meeting
23 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
24 apply to this subdivision. This subdivision shall become operative upon the implementation of the
25 proposed registration program described in Section 2052.5.

26 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
27 participate in an interview by the board. This subdivision shall only apply to a certificate holder
28 who is the subject of an investigation by the board.”

1 5. Section 2241.5 of the Code states:

2 “(a) A physician and surgeon may prescribe for, or dispense or administer to, a person
3 under his or her treatment for a medical condition dangerous drugs or prescription controlled
4 substances for the treatment of pain or a condition causing pain, including, but not limited to,
5 intractable pain.

6 “(b) No physician and surgeon shall be subject to disciplinary action for prescribing,
7 dispensing, or administering dangerous drugs or prescription controlled substances in accordance
8 with this section.

9 “(c) This section shall not affect the power of the board to take any action described in
10 Section 2227 against a physician and surgeon who does any of the following:

11 “(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence,
12 repeated negligent acts, or incompetence.

13 “(2) Violates Section 2241 regarding treatment of an addict.

14 “(3) Violates Section 2242 regarding performing an appropriate prior examination and the
15 existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs.

16 “(4) Violates Section 2242.1 regarding prescribing on the Internet.

17 “(5) Fails to keep complete and accurate records of purchases and disposals of substances
18 listed in the California Uniform Controlled Substances Act (Division 10 (commencing with
19 Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal
20 Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or
21 pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A
22 physician and surgeon shall keep records of his or her purchases and disposals of these controlled
23 substances or dangerous drugs, including the date of purchase, the date and records of the sale or
24 disposal of the drugs by the physician and surgeon, the name and address of the person receiving
25 the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall
26 otherwise comply with all state recordkeeping requirements for controlled substances.

27 //

28 //

1 “(6) Writes false or fictitious prescriptions for controlled substances listed in the California
2 Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse
3 Prevention and Control Act of 1970.

4 “(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of
5 Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of
6 Division 10 of the Health and Safety Code.

7 “(d) A physician and surgeon shall exercise reasonable care in determining whether a
8 particular patient or condition, or the complexity of a patient's treatment, including, but not
9 limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a
10 more qualified specialist.

11 “(e) Nothing in this section shall prohibit the governing body of a hospital from taking
12 disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and
13 809.5.”

14 6. Section 2242, subdivision (a) of the Code, in applicable part states that “[p]rescribing,
15 dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior
16 examination and a medical indication, constitutes unprofessional conduct.”

17 7. Section 725 of the Code states:

18 “(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering
19 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated
20 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of
21 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,
22 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language
23 pathologist, or audiologist.

24 “(b) Any person who engages in repeated acts of clearly excessive prescribing or
25 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
26 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
27 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
28 imprisonment.

1 "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
2 administering dangerous drugs or prescription controlled substances shall not be subject to
3 disciplinary action or prosecution under this section.

4 "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section
5 for treating intractable pain in compliance with Section 2241.5."

6 CASE SUMMARY

7 8. This case involves "J.C." a 57-year-old female who was a patient of Dr. Conolly
8 since May 20, 2000. Her first available medical record is dated April 19, 2011. The patient
9 complained of a lot of pain in her arms. Her physical examination revealed limited external
10 rotation in her right shoulder, crepitus below patellae¹ was noted. The patient was referred to
11 orthopedics for right shoulder pain and thoracic outlet syndrome² evaluation. She was prescribed
12 with Diazepam³ 10 mg one to two tablets every 8 hours #180 with three refills, Alprazolam⁴ 2 mg
13 q.8h. #120 with three refills, MS Contin⁵ 100 mg two tablets in a.m., two tablets in the afternoon
14 and three tablets at nighttime #210, Vicodin ES⁶ one to two tablets every four hours #180 with

15 _____
16 ¹ Crepitus is the grinding, crackling, or grating sensation in a joint, commonly
17 accompanied by a cracking sound, in this case below the knee cap.

18 ² Thoracic outlet syndrome is a group of disorders that occur when blood vessels or nerves
19 in the space between the collarbone and the first rib (known as the thoracic outlet) are
20 compressed. This can cause pain in the shoulders and neck and numbness in the fingers.

21 ³ Diazepam - This medication is used to treat anxiety, acute alcohol withdrawal, and
22 seizures. It is also used to relieve muscle spasms and to provide sedation before medical
23 procedures. It belongs to a class of drugs called benzodiazepines which act on the brain and
24 nerves (central nervous system) to produce a calming effect. It works by enhancing the effects of
25 a certain natural chemical in the body (GABA).

26 ⁴ Alprazolam is the generic name for Xanax, a potent benzodiazepine tranquilizer used in
27 the management of certain anxiety states.

28 ⁵ MS Contin is a trade name for morphine sulfate in a controlled release formulation. MS
Contin exposes patients to the risks of opioid addiction, abuse, and misuse, which can lead to
overdose and death. Serious, life-threatening, or fatal respiratory depression may occur with use
of MS Contin. Concomitant use of opioids with benzodiazepines or other central nervous system
(CNS) depressants, including alcohol, may result in profound sedation, respiratory depression,
coma, and death.

⁶ Vicodin ES is a trade name for Hydrocodone/acetaminophen (apap) used to treat pain, in
an extended release formulation.

three refills, Methadone⁷ 10 mg four to five tablets every six hours #600. Dilaudid⁸ 4 mg #360 one to two tablets every four hours as needed for pain, was also prescribed.

9. A progress note for August 3, 2011, indicates that the patient had a right knee X-ray. The patient stated that she needed pain medications and benzodiazepines⁹ to help with the stress of her pain. Dr. Conolly doubted that this patient would opt for surgery. Diazepam 10 mg #180, Alprazolam 2 mg #120, MS Contin 100 mg #210, Vicodin ES #180, Hydromorphone¹⁰ 4 mg #360 and Methadone 10 mg #600 were prescribed.

10. The patient was seen again on November 1, 2011. She complained of a lot of sinus problems, back and neck pain and migraine headaches. She was noted to have decreased range of motion in C5-C6. She was referred for consideration for epidural steroid injection and facet nerve denervation. Valium¹¹ 10 mg #180 with three refills, Alprazolam 2 mg #120 with three refills, Hydromorphone 4 mg #360, Vicodin ES #180 with three refills, Methadone 10 mg #600, and MS Contin 100 mg #210 were prescribed.

11. The patient was seen again on February 8, 2012. She complained of throat pain and sinus problems. She was recommended to see the pain management specialist for facet joint and epidural steroid joint injection. A sleep study was considered. Methadone 10 mg four to five tablets every six hours #600, Hydromorphone 4 mg one to two tablets q.4h. #360, Diazepam 10 mg one to two tablets q.8h. as needed for muscle spasm #180 with three refills, Alprazolam 2 mg

⁷ Methadone is a synthetic addictive narcotic drug used for the relief of pain and as a substitute narcotic in the treatment of heroin addiction.

⁸ Dilaudid is the trade name for a narcotic analgesic used to treat moderate to severe pain. This drug is also known as hydromorphone.

⁹ Benzodiazepines are a class of drugs that act as tranquilizers and are commonly used in the treatment of anxiety.

¹⁰ Hydromorphone is a narcotic analgesic, sold under the trade name Dilaudid, which is used to treat moderate to severe pain.

¹¹ Valium is the trade name for diazepam, a benzodiazepine. It is used to treat anxiety disorders, alcohol withdrawal symptoms, or muscle spasms and, in combination with other medicines, to treat seizures.

1 q.6h. #120 with three refills, MS Contin 100 mg two tablets to three tablets every q.8h. #210, and
2 Vicodin ES one to two tablets q.4h. #180 with three refills were authorized.

3 12. The patient was seen again on May 9, 2012. She complained of URI¹² symptoms.
4 She was recommended to see rheumatology for fibromyalgia¹³ evaluation. MS Contin 100 mg
5 #210, Vicodin ES #180 with three refills, Diazepam 10 mg #180 with three refills, Alprazolam 2
6 mg #120 with three refills, Methadone 10 mg #600 and Hydromorphone #360 were refilled.

7 13. The patient was seen again on August 16, 2012. She complained of left groin pain.
8 A lesion on her left thigh was noted. She was recommended to dermatology. Methadone 10 mg
9 #600, Vicodin ES #180 with three refills, MS Contin 100 mg #360, Hydromorphone #360,
10 Diazepam 10 mg #180, and Alprazolam 2 mg #120 were prescribed.

11 14. The next available progress note is dated September 7, 2013. The patient complained
12 of left parotid swelling and upper respiratory symptoms. She was prescribed Zithromax¹⁴ Z-
13 PAK. MS Contin, Alprazolam, Vicodin ES and Hydromorphone were refilled.

14 15. The patient was seen for follow-up on January 16, 2014. She complained of knee
15 pain. She had not seen orthopedics for further evaluation. Methadone 10 mg #600, Dilaudid 4 mg
16 #360, Xanax¹⁵ 2 mg #120 and MS Contin 100 mg #210 were prescribed.

17 16. The patient was seen by Dr. M.H. on May 15, 2014. She complained of chronic pain,
18 depression, and fibromyalgia. Dr. M.H. indicated that she did not prescribe Methadone. She
19 diagnosed the patient with muscle pain, depression, and pain in both knees. Her medications,

21 ¹² URI stands for upper respiratory tract infection and is a nonspecific term used to
22 describe acute infections involving the nose, paranasal sinuses, pharynx, larynx, trachea, and
23 bronchi.

24 ¹³ Fibromyalgia is a disease characterized by chronic pain, stiffness, and tenderness of
25 muscles, tendons, and joints, without detectable inflammation. Undue fatigue plagues a high
percentage of patients with fibromyalgia, and sleep disorder is also common in patients with
fibromyalgia.

26 ¹⁴ Zithromax Z-PAK is the trade name for Azithromycin, an antibiotic useful for the
27 treatment of a number of bacterial infections, including middle ear infections, strep throat,
pneumonia, traveler's diarrhea, and certain other intestinal infections.

28 ¹⁵ Xanax is the trade name for Alprazolam, a potent benzodiazepine tranquilizer used in
the management of certain anxiety states. It is a Schedule III controlled substance.

1 excluding Methadone, were refilled. She was recommended to follow up with Dr. Conolly and to
2 see pain management.

3 17. The patient was seen by Dr. J.K. on June 30, 2014, at an urgent care. Her history
4 included insomnia, migraine, low back pain, fibromyalgia, and central sleep apnea. She was
5 diagnosed with chronic pain, muscle pain, anxiety, ADD (attention deficit disorder), and
6 depression. Her medications were refilled.

7 18. The patient was seen again by Dr. J.K. on August 11, 2014. She was diagnosed with
8 anxiety, ADD, depression, and chronic pain. Her medications were refilled.

9 19. The patient was seen by Dr. Conolly on September 10, 2014. She complained of
10 migraine headache, fibromyalgia, chronic low back pain with little radiological change, bilateral
11 knee pain with little radiological change, bilateral thoracic outlet syndrome and essential sleep
12 apnea, and inability to tolerate CPAP.¹⁶ She was noted to have been previously diagnosed with
13 anxiety and treated with Alprazolam by a psychiatrist in Oregon. Dr. Conolly discussed the
14 concern with regards to the patient's pain medication regimen. An attempt on dose reduction was
15 agreed upon. The patient was recommended to see Dr. W. for neurologic work up. MS Contin,
16 Hydromorphone, Methadone, Xanax, and Adderall¹⁷ were refilled.

17 20. The patient was seen by Dr. Conolly on October 22, 2014. The patient indicated that
18 she was reducing her Methadone dose since her last visit from 20 tablets down to 12 tablets a day.
19 A physical examination was not performed. The patient's medications were refilled. She was
20 referred again to Dr. W. A sleep medicine consultation was recommended.

21 21. The patient was seen again on November 21, 2014. She complained of right knee
22 pain and left-sided facial pain. She was noted to have painful range of motion in her neck.

23
24
25 ¹⁶ CPAP is an abbreviation for continuous positive airway pressure. A technique for
26 relieving breathing problems (such as those associated with sleep apnea or congestive heart
failure) by pumping a steady flow of air through the nose to prevent the narrowing or collapse of
air passages or to help the lungs to expand.

27 ¹⁷ Adderall is a trade name for amphetamine mixed salts, and is a medication used in the
28 treatment of attention-deficit hyperactivity disorder (ADHD) and narcolepsy.

1 Orthopedic consultation was recommended. Sleep medicine evaluation was also recommended.
2 The patient was advised to continue decreasing Methadone dose by 10 mg per day.

3 22. The patient was seen on January 15, 2015, for URI and sinusitis¹⁸ complaints. Her
4 medications were refilled.

5 23. The patient was seen for follow-up on February 17, 2015. She complained of
6 domestic turmoil. She complained of dropping things and not having strength to hold them. She
7 indicated that her overall pain had increased and her enjoyment of life had been changed. On
8 examination, she was noted to have tenderness along the medial and lateral knee joint lines. She
9 was referred to Dr. W. Her right knee was felt to be surprisingly devoid of radiological changes.
10 She was advised to see Dr. S. for orthopedics.

11 24. The patient saw Dr. Conolly on April 2, 2015. She saw Dr. S. and was not felt to
12 require surgery. He did not recommend an MRI and instead offered her aggressive and vigorous
13 physical therapy. The patient was advised to see Dr. R.A. for hyaluronic acid injection.¹⁹

14 25. The patient saw Dr. Conolly on May 5, 2015. She complained of sore throat,
15 postnasal drip, and otalgia (ear pain). She indicated that she was unable to reduce her
16 Hydromorphone dose. She was diagnosed with fibromyalgia, DJD²⁰ of the cervical and lumbar
17 spine, and right knee pain. No further attempt at dose reduction was made.

18 26. The patient saw Dr. W. on May 27, 2015. She was noted to have chronic pain in
19 multiple sites secondary to fibromyalgia and Sjögrens Syndrome.²¹ Her pain medications reduced
20 her pain without side effects. The patient indicated that the opioids prescribed by Dr. Conolly

21
22 ¹⁸ Sinusitis is an inflammation of the nasal sinuses. Acute sinusitis is usually treated with
antibiotic therapy.

23 ¹⁹ In patients with osteoarthritis, the hyaluronic acid in the affected joint thins. In such
24 cases, injections of hyaluronic acid add to the body's natural supply by augmenting the fluid in
joints. These injections are sometimes referred to as "viscosupplementation."

25 ²⁰ DJD is an abbreviation for degenerative joint disease, also known as osteoarthritis. This
26 type of arthritis is caused by inflammation, breakdown and eventual loss of the cartilage of the
joints. It is also called degenerative arthritis.

27 ²¹ Sjögrens Syndrome is a chronic disorder of the immune system - a long-term
28 autoimmune disease - in which the patient's white blood cells attack the saliva and tear glands,
leading to dry mouth and eyes because the body's tear and saliva production is reduced.

1 were benefitting her. A urine toxicology test was unrevealing. The patient was advised to
2 continue with her present pain management treatment by Dr. Conolly.

3 27. The patient saw Dr. Conolly on June 11, 2015. She was noted to have seen urology
4 for urinary incontinence and pelvic pain. She was advised to continue with her current
5 medications and to taper analgesics as recommended.

6 28. The patient saw Dr. Conolly on July 14, 2015. She complained of neck muscle
7 spasms. She was able to reduce MS Contin to one tab TID and Methadone down to 10 mg TID.

8 29. The standard of care for pain management requires documentation and assessment of
9 the pain, physical and psychological function; a substance abuse history; a thorough history of
10 prior pain treatment; and documentation of the presence of a recognized medical indication for
11 the use of a controlled substance. The physician should periodically review the course of pain
12 treatment of the patient and monitor the patient's treatment progress. Patients taking
13 benzodiazepines and opioids are at significant risk for respiratory depression. Physicians should
14 consider a trial of benzodiazepine tapering in patients using opioids.

15 30. There is no adequate documentation of substance abuse history, prior pain treatment
16 or psychological assessment. Review of the records indicates that the patient complained of
17 severe neck, lower back and knee pain but had minimal radiographic changes. It appears that Dr.
18 Conolly attributed her symptoms to fibromyalgia. Treatment of fibromyalgia can be challenging,
19 but use of multiple opioids for fibromyalgia is not supported by generally recognized treatment
20 guidelines or published data.

21 31. Review of the records and CURES report indicate that Dr. Conolly -- over a span of
22 years -- repeatedly prescribed to this patient Acetaminophen-Hydrocodone²² 7.5 mg 1 tab every 4
23 hours, MS Contin 200 mg to 300 mg every 8 hours, Methadone 50 mg every 6 hours and
24 Hydromorphone 8 mg every 4 hours. The patient was also prescribed Diazepam 20 mg every 8
25 hours for muscle spasm and Alprazolam 2 mg every 6 hours for anxiety. Prescribing two long-

26 ²² Acetaminophen-Hydrocodone (sold under the trade name of Norco) is an opioid
27 analgesic and antitussive (cough suppressant) combined with a fever reducer and pain reliever
28 which is used to treat moderate to fairly severe pain.

1 acting opioids, two short- acting opioids and two benzodiazepines, all at very high doses, in a
2 patient with central sleep apnea²³ is unsafe and risky.

3 32. Use of Methadone for chronic non-cancer pain is at best controversial if not unsafe.
4 Methadone has a very narrow therapeutic index and can have a strong interaction with other
5 central nervous system depressants such as Valium and Alprazolam. The recommended dosing
6 per the Physician Desk Reference is every 8 or every 12 hours, not every 6 hours, as was done by
7 the Respondent.

8 33. It is beneath the standard of care to excessively prescribe multiple controlled
9 substances without due caution and appropriate medical indication.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Prescribing without Medical Indication)**

12 34. Respondent Matthew Ellis Conolly, M.D. is subject to disciplinary action for
13 unprofessional conduct under section 2242, subdivision (a) for prescribing, dispensing, or
14 furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination
15 and a medical indication. The circumstances are as follows:

16 35. Complainant incorporates by reference as though fully set forth at this point, the
17 allegations in paragraphs 8 through 33 above.

18 36. Respondent excessively prescribed multiple controlled substances without
19 appropriate medical indication.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Repeated Acts of Clearly Excessive Prescribing)**

22 37. By reason of the foregoing facts, Respondent Matthew Ellis Conolly, M.D. is subject
23 to disciplinary action under section 725 of the Code for repeated acts of clearly excessive
24 prescribing, furnishing, dispensing, or administering of drugs as determined by the standard of the
25 community of licensees.

26
27 ²³ Sleep apnea is the temporary stoppage of breathing during sleep, often resulting in
28 daytime sleepiness. Apnea comes from the Greek for "want of breath." The most common form
of sleep apnea is obstructive sleep apnea.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 38. By reason of the foregoing facts, Respondent Matthew Ellis Conolly, M.D. is subject
4 to disciplinary action under section 2234, subdivision (b) of the Code for gross negligence in his
5 care of the aforementioned patient by excessively prescribing multiple controlled substances
6 without appropriate medical indication.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Repeated Negligent Acts)**

9 39. By reason of the foregoing facts, Respondent Matthew Ellis Conolly, M.D. is subject
10 to disciplinary action under section 2234, subdivision (c) of the Code for repeated negligent acts
11 in his care of the aforementioned patient.

12 **PRAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Medical Board of California issue a decision:

15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 34351,
16 issued to Matthew Ellis Conolly, M.D.;

17 2. Revoking, suspending or denying approval of his authority to supervise physician
18 assistants and advanced practice nurses;

19 3. If placed on probation, ordering him to pay the Board the costs of probation
20 monitoring; and

21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: AUGUST 11, 2017


24 KIMBERLY KIRCHMEYER
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
28 State of California
Complainant

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